



CHIEF JUSTICE'S RULES ADVISORY COMMISSION MINUTES OF MEETING

May 8, 2020

Remote Meeting via WebEx

Call to Order

A remote meeting of the Chief Justice's Rules Advisory Commission was called to order at 2:00 p.m. on Friday, May 8, 2020, via WebEx by North Carolina Court of Appeals Judge Donna Stroud, Commission Chair.

Commission Members Present for the WebEx Meeting:

Trey Allen, *Associate Professor*, UNC School of Government
Ann Anderson, *Associate Professor*, UNC School of Government
Mark Anderson, *Partner*, McGuireWoods LLP
Mark Holt, *Partner*, Holt Sherlin LLP
Mike Mitchell, *Attorney*, Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP
Kellie Myers, *Trial Court Administrator*, Wake County
John Rabiej, former *Deputy Director*, Bolch Judicial Institute, Duke University School of Law
Paul Ridgeway, *Senior Resident Superior Court Judge*, Wake County
Andrew Tripp, *Chief of Staff*, Office of Senate President Pro Tempore Phil Berger
Christine Walczyk, *District Court Judge*, Wake County

Other Attendees Present for the WebEx Meeting:

Christopher Aman, *Network Services Operations and Administration Manager*, North Carolina Administrative Office of the Courts
Seth Ascher, *Assistant Administrative Counsel*, Supreme Court of North Carolina
Grant Buckner, *Administrative Counsel*, Supreme Court of North Carolina
Brad Fowler, *Chief Business Officer*, North Carolina Administrative Office of the Courts
Betse Hamilton, *Office Administrator*, Supreme Court of North Carolina
Shannon Hydu, *Director of Client Solutions*, Tyler Technologies
Melissa Jackson, *Business Analysis & Process Management Manager*, North Carolina Administrative Office of the Courts
Emily Mehta, *Research and Policy Associate*, North Carolina Administrative Office of the Courts

Andrew Simpson, *Chief Counsel for Policy and Intergovernmental Affairs*, North Carolina Administrative Office of the Courts
Rebecca Stevens, *Research Assistant to Representative Sarah Stevens*, North Carolina House of Representatives
Jen Wyatt, *Assistant Administrative Counsel*, Supreme Court of North Carolina

Approval of Minutes

The minutes from the February 7, 2020 meeting were approved, as written.

Impact of COVID-19

Filing Secured Documents Electronically Using *Odyssey*

Ms. Shannon Hydu and Mr. Brad Fowler gave a demonstration of how to file secured documents electronically using *Odyssey*. The interface was displayed on the WebEx for participants to view. Electronic service using *Odyssey* was also discussed.

Mr. Fowler noted that COVID-19 has emphasized the need for statewide electronic filing and service of court documents. A general discussion around this topic ensued.

Legislative Update

Mr. Andrew Simpson gave a report on (1) Chief Justice Cheri Beasley's 1 May 2020 emergency order in response to COVID-19, and (2) North Carolina Session law 2020-3. These documents are attached to these minutes.

Mr. Simpson emphasized those portions of the order and legislation that impact the Judicial Branch's current eCourts initiative, including provisions about remote hearings, electronic service, notarization, video witnessing, electronic signatures, and remote swearing-in of new attorneys.

Mr. Simpson requested that the Commission provide him with feedback if further emergency legislation is needed due to COVID-19.

Open Discussion

An open discussion ensued about the impact of COVID-19 on the work of the Judicial Branch. Judge Paul Ridgeway noted that the Chief Justice's emergency directives have been well-received on the ground. Judge Christine Walczyk indicated that she would like the Chief Justice's authorization of remote hearings to be extended for the foreseeable future.

General Rules of Practice Subcommittee Report

Mr. Mark Anderson, Subcommittee Chair, shared the subcommittee's current draft of a revised Rule 5, "Form of Pleadings." This document is attached to these minutes. Mr. Anderson reviewed each subsection in the proposed rule and solicited the Commission members' feedback. Some discussion ensued about filing secured documents, particularly discovery documents.

Commission members were encouraged to send additional feedback about the Rule 5 proposal to Mr. Anderson by e-mail.

Rules of Civil Procedure Subcommittee Report

Mr. Mike Mitchell, Subcommittee Chair, and Prof. Ann Anderson shared the subcommittee's current draft of a revised Rule 3, "Commencement of action," and of a revised Rule 5, "Service and filing of pleadings and other papers." This document is attached to these minutes. Ms. Anderson reviewed each proposed edit to the rules and solicited the Commission's feedback.

Debate ensued about two components of the proposal: (1) independent e-mail service in addition to electronic service by the *Odyssey* system, and (2) the applicability of the three-day mailing rule to electronic service.

The Commission reached consensus that a final Rules of Civil Procedure proposal needs to be submitted to the legislature by 1 June 2020. The Commission authorized Mr. Andrew Tripp and Mr. Andrew Simpson to facilitate communication with the legislature on this issue. Ms. Anderson agreed to help them in this task.

The Commission agreed to vote on a final Rules of Civil Procedure proposal at its next meeting.

Upcoming Commission Meetings

The next Commission meeting is scheduled for Friday, May 22, 2020, 2:00 p.m. – 5:00 p.m. Due to COVID-19, this meeting will be conducted remotely via WebEx.

Adjournment

The meeting was adjourned at approximately 4:40 p.m. by Judge Stroud.

Minutes submitted by: /s/ Grant E. Buckner
Administrative Counsel, Supreme Court of North Carolina

Date: 5/15/20